

## How a conviction becomes spent

### What is the Rehabilitation of Offenders Act?

The Rehabilitation of Offenders Act 1974 outlaws discrimination against ex-offenders. It is intended to help people with few and/or minor convictions. People with many or serious convictions will probably not benefit from the Act because their rehabilitation period will usually be longer.

The way in which a conviction can become 'spent' under the ROA will depend upon the sentence received for the offence, and the rehabilitation period that applies to that offence sentence. The principles apply to convictions in a criminal court, findings in a juvenile court, certain offences in service disciplinary proceedings and hospital orders under the Mental Health Act 1983.

The time required before the conviction is spent – the rehabilitation period – will be different depending upon the nature and length of the sentence, be it a term of imprisonment, a fine, a surcharge order, probation, or an absolute or conditional discharge. Relevant rehabilitation periods are set out below.

Unless otherwise stated, the rehabilitation period runs from the date of the conviction and will generally depend upon compliance with the sentence.

## Relevant Rehabilitation Periods

Sentence of imprisonment of more than two and a half years	<b>Never</b>
Sentence of imprisonment of more than six months but no more than two and a half years	<b>10 years</b>
Youth custody for more than six months but no more than two and a half years	<b>10 years*</b>
Corrective training for more than six months but no more than two and a half years	<b>10 years*</b>
Dismissal with disgrace from Her Majesty's service	<b>10 years*</b>
A sentence of Borstal training	<b>7 years</b>
Prison for six months or less	<b>7 years*</b>
Dismissal from Her Majesty's service	<b>7 years*</b>
Sentence of imprisonment or detention in YOI or youth custody for six months or less	<b>7 years*</b>
Detention in respect of conviction in service disciplinary proceedings	<b>5 years*</b>
(Most) fines	<b>5 years*</b>
Sentence of young offender detention for over six months but not more than two and a half years	<b>5 years</b>
Probation order or community order (person 18 or older)	<b>5 years</b>
Probation order or community order (person under 18)	<b>Either 2 ½ years from conviction, or until the order ceases to have effect – whichever is the longer</b>
Hospital order under Mental Health Act 1983	<b>Either 5 years, or 2 years after order ceases to have effect, whichever is the longer</b>
Sentence of young offender detention for not more than six months	<b>3 years</b>
Conditional discharge, binding over, care order, supervision order, reception order	<b>Either 1 year after making of order, or 1 year after the order ends, whichever is the longer</b>
Absolute discharge	<b>6 months</b>
Disqualification	<b>The period of disqualification</b>
Cautions, Warnings and Reprimands	<b>Spent as soon as they are issued</b>
Conditional cautions	<b>Spent as soon as conditions end</b>

\*Note: These periods are reduced by half if the offender was under eighteen at the date of conviction.

## **Do I need to tell an employer about spent convictions?**

You don't need to disclose spent convictions when applying for most jobs. Under the Rehabilitation of Offenders Act 1974 it's unlawful for an employer to discriminate on the grounds of a spent conviction. However, some types of jobs are exempt from this Act – this means you have to disclose spent convictions as well as unspent ones.

These jobs include:

- working with children and vulnerable adults, such as elderly and disabled people
- senior roles in banking and the financial services industry
- certain posts connected to law enforcement, including the judiciary and the police
- work involving national security
- certain posts in the prison service
- certain professions in areas such as health, pharmacy and the law
- private security work

## **What else do I need to know about disclosing convictions?**

You and your employer have certain rights and responsibilities when disclosing convictions. You need to be aware that:

- if an application form asks for details of spent convictions, check the post is exempt under the Rehabilitation of Offenders Act 1974
- if an employer or application form asks you if you've got a criminal record and your convictions are spent, and the job isn't excepted from the Act, you can say 'no'
- if you're in a job that's not exempted from the Act, and you are dismissed for having a spent conviction, and can prove it, and have been employed for a year or more, you may be able to claim unlawful dismissal
- if you've got unspent convictions and don't disclose them when asked to, you can be dismissed by your employer, and possibly prosecuted
- it's a complex law so seek advice if you've got concerns, particularly if an employer claims a post is exempted under the Act when in fact it is not.